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Sent: Wednesday, December 15, 2004 10:02 AM
To: Hall, Timothy; Smith, Dmitri
Subject: Cal/EPA EJ Action Plan Implementation: ACC Comments regarding the definition of "Precautionary Approach."

December 15, 2004

Mr. Tim Hall
Mr. Dmitri Smith
California Integrated Waste Management Board
1001 I Street
Sacramento, California 95814

Re: Cal/EPA EJ Action Plan Implementation: Comments regarding the definition of "Precautionary Approach."

Dear Mr. Hall and Mr. Smith:

On behalf of the member companies of the American Chemistry Council (the Council), I appreciate the opportunity to submit the following comments regarding the Cal/EPA's effort to define "precautionary approaches" under its Environmental Justice Action Plan.

By way of background, the Council represents the leading companies engaged in the business of chemistry. Council members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. Health care products, technology-enhanced agricultural products, protective packaging materials, longer-lasting paints, faster microprocessors, lightweight automobiles, and stronger composite materials in aircraft are only a few of the innovative products of our industry, which in California employs nearly 82,000 people and generates over \$22 billion worth of products.

Council members believe that there is nothing inherently biased or extreme about precaution. In fact, in previous testimony provided during the development of the EJ Action Plan, we indicated that:

Precautionary measures are wise and necessary. Council members take seriously the issue of human health and environmental protection by employing precautionary measures to ensure the safe production, management, and use of products. Under these initiatives, Council members have committed to continuous improvement in health, safety and environmental protection - a commitment that is grounded in precaution through the implementation of Responsible Care® - a voluntary program to achieve improvements in environmental, health and safety performance beyond levels required by the U.S. government.

The program has resulted in significant reductions in releases to air, land and water, major improvements in workplace and community safety, and expanded programs to research and test chemicals for potential health and environmental impacts. The result of the caution-based initiatives, combined with government regulations has led to a dramatic

increase in spending on environmental, health, and safety programs at chemical and manufacturing facilities with industry spending \$13 billion a year on environmental, health and safety safeguards.

Several U.S. statutes contain precautionary measures.

The precautionary approach, as set forth in Principle 15 of the 1992 Rio Declaration, is a universally accepted principal. Most importantly, a key concept of Principle 15 is the inclusion of "cost effective measures."

The Council believes that industry should exercise a precautionary approach as a fundamental operating principle. For decades, governments and industries have taken a precautionary approach to environmental and health decisions, and the current U.S. system strike a rational balance that recognizes the fundamental importance of scientific evidence. This approach is also consistent with the elements of sustainable development, which is a commitment to minimize the environmental impact of our products and operations, while at the same time maximizing the social and economic contributions of the chemical industry.

The precautionary approach was one of the key issues addressed at the 2002 follow-up to the Rio summit: the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. In Johannesburg, delegates debated amending the Rio Declaration Principle 15 definition by incorporating language stating the importance of governments adopting a "precautionary principle" approach in making regulatory decisions. The world governments rejected this approach. Developing nations in particular were concerned that references to extreme interpretations of the precautionary principle would have an adverse effect on trade. The participating governments, including the United States, strongly supported the importance of a science-based approach to decision-making and the need to establish relationships between the science community and governments.

As Cal/EPA works to more specifically define "precautionary approach" under its EJ Action Plan, we suggest the following:

The Cal/EPA EJ Action Plan definition must include language that ensures decisions are based on accurate, reliable, reproducible, and unbiased information. This involves the use of the best available science and supporting studies in accordance with sound and objective scientific practices, including, peer reviewed science and supporting studies.

A Cal/EPA "precautionary approach" must ensure an open, public, and transparent process and any implementation must be fair, consistent, and clear to ensure that all stakeholders have the same understanding of regulatory policies.

Any "precautionary approach" definition should consider the benefits of the activity or project in assessing what, if any, action is necessary. While new technologies can carry certain risks, it is important to note that a decision to avoid certain risks poses it own, perhaps even greater danger.

The Council appreciates the opportunity to provide these comments. Should you have any questions or comments, please do not hesitate to contact me at

916-448-2581 or via email at tim_shestek@americanchemistry.com

Sincerely,

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